

## Legal questions raised over campaign tactics for ambulance fees in Montgomery County

Common Cause: County should not have advocated for ballot question

by Erin Cunningham | Staff Writer

Montgomery County Executive Isiah Leggett's decision to have paid county employees work the polls Tuesday in support of a ballot initiative continues to draw criticism from election experts and at least one County Council member.

"Having staff on county time using county resources to advocate for something is essentially a public financing of that campaign," said Mary Boyle, a spokeswoman for Common Cause and a board member for Common Cause Maryland.

However, County Attorney Marc Hansen said the activity is legal and that he believes county government could use employees and money for similar ballot initiatives in the future.

In making his case, Hansen says the county has the same right to free speech as an individual would. Though, some say the issue isn't one of free speech, but whether the county's actions violate a state law that prohibits county employees from engaging "in political activity while on the job during working hours."

County officials, including Hansen, originally said that paid firefighters were not campaigning, but were educating the public about a law already on the books.

On Monday, county spokesman Patrick K. Lacefield said county employees had begun advocating for Question A, but continued to claim the county's actions were legal.

The ballot question — asking voters whether they support a county ambulance fee — was itself controversial, pitting paid firefighters against the county's volunteer firefighting force, which led the fight against the fee.

The ambulance fee, which would have charged insurance companies, Medicare and Medicaid for ambulance rides, was defeated by about 54 percent of the vote, according to unofficial election results.

On Election Day, voters reported that uniformed county firefighters were at the polls, according to Montgomery County Board of Elections spokeswoman Marjorie Roher. In some cases, voters said they felt intimidated by the firefighters, some of whom were on duty.

At some polling locations, firefighters brought their apparatus, Lacefield acknowledged. Leading up to Election Day and during early voting, firefighters handed out pro-ambulance fee brochures and fliers, some of which were produced by county government.

Others were purchased by a political action committee that formed last month in support of the fee.

"It's one thing for local government officials to be out there talking about it, that's their job," Common Cause's Boyle said. "But when it's staff, that's a different story."

She said a Common Cause affiliate in California, where ballot questions are more common, reported that similar activity there would have been illegal.

In recent weeks, the county's Volunteer Fire-Rescue Association and others voiced concerns over Leggett's (D) use of county resources to advocate for Question A. Officials would not say how much time and money had been spent campaigning, but on Monday, Fire Chief Richard Bowers said that "quite a bit" of his time had been directed toward the effort.

"This is something that we're able to do," Lacefield said. "It's both legal and appropriate."

While it may be legal under Hansen's interpretation, Boyle says the county's advocacy is problematic.

"I don't know where the county attorney is coming at this from, but from our view, from a good government point of view, it's certainly not a best practice," Boyle said.

County Councilman Philip Andrews (D-Dist. 3) of Gaithersburg, who ran unopposed, wants to change the law to make campaigning with the use of county resources illegal, he said Tuesday.

"The assignment of career personnel to the polls is out of line and abusive of tax dollars, especially when the county is crying poverty," Andrews said. "They used a tremendous amount of tax dollars to try to persuade voters to vote for the ambulance fee law. I hope I never see it here again."

Leggett has recommended \$14.3 million in budget cuts to make up for lost ambulance fee revenue. The cuts overwhelmingly affect public safety and would result in the layoffs of more than 100 firefighters.

The council is considering alternatives, but the decision likely will be made after the next council is sworn in Dec. 6, according to Council President Nancy M. Floreen (D-At large) of Garrett Park.